

Recommendation of procedure for case handling/dispute resolution within the GFA between H&M, IndustriALL Global/IF Metall

The procedure, described in this document, is a recommendation and can be used as support to resolve labor related cases at H&M suppliers, covered by the GFA and related to violations of the standards within the GFA.

To fulfil the overall goal of the GFA “Well-functioning industrial relations”, Social partners are recommended to act in a responsible way in line with fair labor practices. A pre-condition to achieve this overall goal is the development of a structure for cooperation between social partners¹ at factory/plant level.

A core requirement for constructive and result-oriented case handling procedure is the existence of a structure at the factory/plant level that includes management and trade union/workers representatives. Such structure/organizations should be able to handle any case to reach a resolution and ensure adherence to and follow up on the implementation of that resolution at the earliest possible stage.

If either a local management or trade union/worker representative’s structure is missing at factory/plant level, workers and/or management can reach out to a National Trade Union Federation and/or an Employers National Federation/Association and/or the National Monitoring Committee² (NMC) directly for support to facilitate a resolution of a case.

1 Procedures for cases at factory/plant.

In most cases a labor dispute/case arises at a factory/plant level. In principle any case should be solved as close as possible to where they occur.

The below procedure should serve as support for resolving disputes/cases when a facility-level solution cannot be reached.

However, cases are often unique and it is therefore important to notice that this procedure is a guidance tool only which does not limit the actors to use other agreed case handling processes if needed.

1.1 Factory/plant level cases within the GFA.

1.1.1 Shop floor-level

A worker/group of workers, at shop floor level, who would like to raise an issue, e.g. about treatment, production, leave, working conditions in general, should normally raise the issue with their closest supervisor, leader and or manager. If the worker/group of workers feel uncomfortable to do so, the issue should be addressed instead with the closest union/employee representative.

¹ The definition of social partners is management representatives and trade union/workers representatives elected by workers.

² Exist in Turkey, Bangladesh, Cambodia, Myanmar and Indonesia. If not applicable see section 2.4.2

A manager/supervisor who would like to raise an issue with a worker/group of workers at shop floor level, e.g. production, misbehavior of a worker/group of workers, should first raise the issue with the worker/workers concerned. Issues raised at shop floor level should be dealt with within a week.

Resolution reached

If a resolution is reached on the matter the process is finalized. A written record of the case should be submitted to the factory-level workplace dialogue committee to ensure proper follow up.

1.1.2 Rules of procedure if no resolution is reached

If an agreement cannot be reached, the TU/workers or management representative at shop floor level can forward the issue to factory/company level to be dealt with by legally authorized local TU/worker representatives (TU Executive/negotiation committee etc.) and management at factory/plant level (HR or similar, according to the company structure). The request should be followed by written documentation on the issue and the opinions of TU/workers and management representatives.

1.2 Case resolution procedure at factory/plant level within the GFA.

1.2.1 Case forward to factory/plant level from shop floor level

If a case has been forwarded from shop-floor level to local trade union/worker representative and management level, the social partners should as soon as possible enter for dialogue/negotiations with each other to try to find a solution on the issue.

1.2.2 Other issues raised by TU/employee representatives or management representatives at factory/plant level

Social partners at factory/company level can also raise directly to each other issues that concern the whole company or part of the factory/company. The issue can concern the relations between the company and the employees, e.g. working conditions, wages, working hours, OHS.

1.2.3 Rules of procedure

Dialogue/negotiations will continue until an agreement is finalized or until either one of the social partners notes that a solution can not be reached and announces that they will withdraw themselves from the dialogue/negotiations.

The dialogue/negotiation should normally take no more than 2 weeks. The dialogue/negotiation should be documented by minutes that will be signed by all social partners involved. Issues raised should be dealt with, and finalized, within two weeks or quicker if the issue so requires.

1.3 Request for support from stakeholders outside the factory/plant during process at factory/plant level

1.3.1 Support from National Trade Union Federation or Employers National Federation/Association

Taking into consideration national structure and praxis, factory/plant level social partners can, if they feel it would be helpful, reach out to social partners at the national level (e.g. National Trade Union Federation or Employers National Federation/Association) for support and facilitation.

1.3.2 National Monitoring Committee (NMC)

If a National Monitoring Committee (NMC) has been established in the country and an agreement cannot be reached at factory/plant level, the social partners (TU/workers and management representatives) can jointly, or individually, forward the issue to the NMC for support and facilitation for a resolution of the case.

A request to the NMC to support and facilitate a resolution should follow the procedure under the third section in this recommendation.

If there is no NMC established in the country, social partners can forward the case to the H&M country office and the National Trade Union concerned for support and facilitation for a resolution of the case. At the same time they can, if needed and agreed upon, act and set up a mechanism/platform for case handling/dispute resolution within the GFA. (?)

1.3.3 Use of Arbitration or national legal system for decision on a case

During case handling procedure any of the social partners can, at any time, forward a case for decision to a legally authorized and/or recognized Arbitration mechanism or other body established within the national legal system. Any verdict from such a system shall be followed by the social partners. If such a system only gives recommendations the latter should be considered carefully by the social partners.

2 Case forward to the NMC.

A request to the NMC to support and facilitate a resolution should follow the following procedures.

2.1 Records of NMC cases

All cases brought to the NMC shall be submitted in writing using the NMC form.

All communication and minutes related to a case, and referred to, shall be documented in writing (including email, text message, letter, fax).

2.1.1 Notification

Any issue on which the employer or employee want NMC assistance should be sent to one or more NMC member(s) in writing, as soon as possible.

The receiving NMC member(s) shall notify all other NMC members within 24 hours of receiving this information, unless there is a conflict of interest (see below). Notification shall include all relevant documentation provided in the first contact with the NMC.

2.1.2 Case review

On being notified of the case, all NMC members shall review the relevant documentation and decide within 5 working days whether to:

1. ask for more documentation and/or
2. inform the parties that they need to try to resolve the issue at factory level before a meeting with the NMC or
3. convene the relevant parties to a meeting within 10 days from the notification.

If the NMC instructs the parties to take option 2, the parties shall have one week to try to resolve the case. If afterwards the NMC asks the parties to attend a meeting, this shall happen within the following week. The timeframes above are to be considered maximum timeframes. The timeframe in which the NMC convenes to assist with the case resolution will depend on the nature of the case. Factors to consider include the extent of business disruption and threat to personal safety.

2.1.3 Meeting procedure

- 1) At the beginning of the meeting, the NMC will welcome both parties and set out the role and purpose of the NMC in assisting with case handling, i.e. to facilitate a dialogue between both parties and not to make a judgment or to act as an Arbitration body
- 2) NMC will seek agreement from both parties on the issues to be discussed in the meeting and the desired outcome of the meeting
- 3) Both parties will take turns to present their views
- 4) NMC can then ask questions and/or request that there is a breakout meeting with NMC members before communicating any recommendations/next steps. The next steps can include appointment of an independent mediator to assist the parties further to resolve the case.
- 5) The parties need to submit in writing to the NMC the actions and timelines that were agreed upon in the meeting within 5 working days.
- 6) The NMC should review the actions and confirm within 5 working days the actions to be followed up by the NMC.

3 NMC request to support from the Steering Committee.

During the NMC work and procedure to support and facilitate a resolution of the case, the NMC can reach out to the Steering Committee or the appointed Managing directors (? name to be changed?) for that region to get support and suggestions.

The Steering Committee, within the GFA structure, can decide to close a case when all efforts have been made and all leverage have been used to reach a resolution of the case.

4 Conflict of interest.

In some cases, a conflict of interest might arise for one or more of the IndustriALL NMC members. For example, a NMC member has an ongoing employment link to the factory union where there is an ongoing case.

If there is a conflict of interest, the IndustriALL member shall not be involved in investigating and handling the case.

5 Labor Action.

Social partners are recommended to negotiate in good faith and not to take labor action as long as the process under the GFA is ongoing and as long as the NMC is operating to support and facilitate a resolution of the case in line with this Recommendation.